IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Bikar Singh. Versus Paramjeet Kaur & ors.

S.B. Criminal Misc. Petition No. 203/2006 against the order dated 12-12-2005 passed by the Sessions Judge, Sri Ganganagar, in Criminal Revision No. 123/2005.

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Date of Order: September 05, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Kulwant Singh, for the petitioner.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 12.12.2005 passed by the Sessions Judge, Sri Ganganagar (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 123/2005, whereby the revision petition filed by the petitioner against the order dated 23-7-2005 passed by the Judicial Magistrate, Sadulshahar, district Sri Ganganagar (for short, "the trial Court" hereinafter), was dismissed.

I have heard learned counsel for the petitioner. Carefully gone through the orders passed by the trial Court as

well as the Revisional Court.

By the order dated 23-7-2005, the trial Court, on an application under Section 125 of the Code filed by the non-petitioner No.1, during pendency of the petition, granted monthly allowance of interim maintenance @ Rs.1000/- in favour of the non-petitioner No.1, who is the legally wedded wife of the petitioner, and @ Rs.750/- per month in favour of each of the non-petitioners No.2 and 2, the minor sons of the petitioner.

It is contended by the learned counsel for the petitioner that the petitioner is prepared to keep and maintain the non-petitioners and, therefore, the Court below fell in error in granting monthly allowance of interim maintenance to the non-petitioners. It is further contended that the non-petitioner No.1 herself is capable to maintain herself and, therefore, the petitioner is prepared to pay the interim maintenance to the non-petitioners No.2 and 3.

By granting interim maintenance during pendency of the main petition, an interim arrangement has been made by the trial Court and the main petition is yet to be decided on the basis of evidence which will be produced by the parties. Whether non-petitioner No.1 herself is capable to maintain her or not, is a question of fact and has to be decided after recording the evidence of the parties. It cannot be said that the impugned order would result in manifest injustice. More so, the petitioner

has already availed the remedy of revision before the Revisional Court. In this view of the matter, I do not find any ground to interfere under the inherent jurisdiction.

The criminal miscellaneous petition is dismissed. However, the trial Court is directed to decide the main application filed by the non-petitioners under Section 125 of the Code utmost expeditiously, preferably within the period of six months.

(H.R. PANWAR), J.

mcs